

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARRY J. SMITH,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 07-408-JJF
)	
THOMAS CARROLL , Warden)	
and JOSEPH R. BIDEN, III , Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME TO FILE

CERTIFIED STATE COURT RECORDS

1. The petitioner, Harry J. Smith, has applied for federal habeas relief, alleging error by the state courts. D.I. 2. The undersigned filed an answer to the petition on October 3, 2007.

2. By the terms of the Court's order, the respondents are directed to attach to the answer certified copies of the state court records material to the questions raised in the petitioner's appeal.

3. Appeals Division policy is that only the Chief of Appeals may retrieve certified records from the Delaware Supreme Court. Due to the large volume of record retrieval recently required by prosecutors in the appeals division, his own substantial caseload, and illness he has been unable to obtain the certified state court records in order to file them by the required date. The undersigned anticipates obtaining and copying the records on or before November 30, 2007.

4. This is respondents' SECOND request for an extension of time to file records.

5. Respondents submit that an extension of time to November 30, 2007 in which to file certified copies of the material portions of the state court records in this case is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: October 3, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General

Counsel for Respondents

Date: November 2, 2007

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on November 2, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Harry J. Smith
SBI No. 297441
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612
james.wakley@state.de.us

Date: November 2, 2007

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Respondents.)	

ORDER

This ____ day of _____, 2007,

WHEREAS, respondents having requested an extension of time in which to file certified state court records, and,

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that certified state court records related to this matter shall be filed on or before November 30, 2007

United States District Judge